

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EHSANULLAH MOHAMMAD,

Plaintiff,

v.

ANDREW SAUL,

Defendant.

Case No. 20-cv-02272-JCS

**ORDER GRANTING IN PART  
FOURTH REQUEST FOR EXTENSION  
OF TIME AND SETTING STATUS  
CONFERENCE**

Re: Dkt. No. 22

The Court has previously granted three requests for extensions of time for Defendant Andrew Saul, Commissioner of Social Security (the “Commissioner”), to file his answer and a certified copy of the administrative record. The answer and administrative record were originally due September 23, 2020; the current deadline is March 22, 2021. On March 23, 2021, the Commissioner filed a fourth request to continue the deadline, seeking an additional forty-five day extension from the date of the motion, for a new deadline of May 7, 2021. The request is supported by a declaration of Jebby Rasputnis, Executive Director of the Social Security Administration’s Office of Appellate Operations, discussing factors generally addressing the Commissioner’s delay in processing administrative records, but not addressing this case specifically.

Plaintiff Ehsanullah Mohammad opposes the request, noting that nearly a year has passed since he filed his complaint, and even with delays due to the Covid-19 pandemic, the Commissioner has filed answers and administrative records in most other cases far more quickly. The Court’s experience with other Social Security cases during the pandemic accords with Mohammad’s position. While some delay is likely inevitable, the delay here is exceptional, and the Commissioner has provided no explanation for why preparing this administrative record is

1 taking so much longer than others.

2 The Commissioner's request, filed a day after the deadline it seeks to extend, places the  
3 Court in a difficult position. If the request were denied, the Commissioner has already failed to  
4 meet the deadline, and the Court would be left with little middle ground beyond relatively severe  
5 measures like default judgment or contempt sanctions. The Commissioner notes that the delay  
6 was caused by a calendaring error confusing the actual deadline with a date sixty days after the  
7 Court's order on the previous request, but even if counsel's understanding of the deadline had  
8 been correct, the present motion would have been filed only three days before the deadline it  
9 sought to extend, which would not allow even the four days for Mohammad's response permitted  
10 by the Court's local rules. *See* Civ. L.R. 6-3(b). The Court has repeatedly admonished the  
11 Commissioner in other cases to bring motions for extensions well in advance of deadlines at issue,  
12 allowing at the very least enough time for a response.<sup>1</sup>

13 The Commissioner's motion is GRANTED IN PART, and the Commissioner is  
14 ORDERED to file his answer and the administrative record no later than April 14, 2021. If the  
15 answer and administrative record are not filed by that date, a status conference will occur on April  
16 16, 2021 at 2:00 PM via Zoom webinar to determine appropriate next steps and sanctions, and  
17 Executive Director Rasputnis is ORDERED to appear at that conference prepared to address the  
18 specific reasons for delay in this case. That conference will be vacated if the answer and  
19 administrative record are filed by the deadline.

20 **IT IS SO ORDERED.**

21 Dated: March 31, 2021

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JOSEPH C. SPERO  
Chief Magistrate Judge

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26 <sup>1</sup> The Court notes that Rasputnis's declaration is dated March 17, 2021, suggesting that the  
27 Commissioner may have been aware of the need for an extension at least six days before filing the  
28 present motion on March 23, 2021, although it is possible that Rasputnis's declaration was not  
prepared specifically for this case. Counsel's characterization of it in the motion as the "January  
2021 Declaration of Jerry Rasputnis" is incorrect as to both the date of the declaration and  
Rasputnis's first name.